

## Farm Service Agency, USDA

## § 777.14

commercial receipts, CCC loan documents, settlement sheets, or records of sugar production.

(c) If there has been a disposition of crop production other than through commercial channels, such as seed cane, the eligible producer must furnish such documentary evidence as the county ASC committee determines to be necessary in order to verify the information provided by the producer.

### § 777.8 Availability of funds.

In the event the total amount of all claims submitted exceeds \$11 million, each payment shall be reduced by a uniform percentage.

### § 777.9 Misrepresentation, scheme and device, and fraud.

(a) If FSA determines that any producer has erroneously represented any fact or has adopted, participated in, or benefited from, any scheme or device which has the effect of defeating, or is designed to defeat the purpose of this part, such producer shall not be eligible for disaster payments under this part and all payments previously made to any such producer shall be refunded to FSA. The amount paid to FSA shall include any interest and other amounts as determined in accordance with this part.

(b) If any misrepresentation, scheme or device, or practice has been employed for the purpose of causing FSA to make a payment which FSA under this part otherwise would not make, all amounts paid by FSA to any such producer shall be refunded to FSA together with interest and other amounts as determined in accordance with this part, and no further disaster payments shall be made to such producer by FSA.

(c) If the county ASC committee determines that any producer has adopted or participated in any practice which tends to defeat the purpose of the program established in accordance with this part, the county committee shall withhold or require to be refunded all or part of the payments which otherwise would be due the producer under this part.

### § 777.10 Refunds to CCC.

(a) In the event that there is a failure to comply with any term, requirement,

or condition for payment made in accordance with this part, all such payments made to the producer shall be refunded to FSA, together with interest.

(b) Producers must refund to FSA any excess payments made by FSA.

(c) In the event that the loss of production was established as a result of erroneous information provided by any person to the county FSA office or was erroneously computed by such office, the loss of production shall be re-computed and the payment due shall be corrected as necessary. Any refund of payments which are determined to be required as a result of such re-computation shall be remitted to FSA.

### § 777.11 Cumulative liability.

The liability of any producer for any payment or refund which is determined in accordance with this part to be due to FSA shall be in addition to any other liability of such producer under any civil or criminal fraud statute or any other statute or provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 1001; and 31 U.S.C. 3729.

### § 777.12 Appeals.

Reconsideration and review of all determinations made in accordance with this part with respect to a farm or an individual producer shall be made in accordance with part 780 of this chapter.

### § 777.13 Liens.

Any payment which is due any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, and the proceeds thereof, which may be asserted by any creditor, except agencies of the United States Government.

### § 777.14 Other regulations.

The following regulations and amendments thereto shall also be applicable to this part:

(a) 7 CFR part 3, Debt Management.

(b) 7 CFR part 12, Highly Erodible Land and Wetland Conservation.

(c) 7 CFR part 707, Payments Due Persons Who Have Died, Disappeared or Have Been Declared Incompetent.

(d) 7 CFR part 719, Reconstitution of Farms, Allotments, Normal Crop Acreage and Preceding Year Planted Acreage.

(e) 7 CFR part 780, Appeal Regulations.

(f) 7 CFR part 790, Incomplete Performance Based Upon Action or Advice of an Authorized Representative of the Secretary.

(g) 7 CFR part 796, Denial of Program Eligibility for Controlled Substance Violation.

**§ 777.15 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

The information collection requirements of this part shall be submitted to the Office of Management and Budget (OMB) for purposes of the Paperwork Reduction Act and it is anticipated that an OMB Number will be assigned.

**PART 780—APPEAL REGULATIONS**

Sec.

780.1 Definitions.

780.2 Applicability.

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780.8 Time limitations for filing requests for reconsideration or appeal.

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780.10 Other finality provisions.

780.11 Reservation of authority.

AUTHORITY: 5 U.S.C. 301; 15 U.S.C. 714b and 714c; 16 U.S.C. 590h.

SOURCE: 60 FR 67316, Dec. 29, 1995, unless otherwise noted.

**§ 780.1 Definitions.**

For purposes of this part:

*1994 Act* means the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Public Law 103–354).

*Agency* means FSA and its county and State committees and their personnel, CCC, NRCS, and any other agency or office of the Department which the Secretary may designate, or any successor agency.

*Appeal* means a written request by a participant asking the next level reviewing authority to review a decision.

*CCC* means the Commodity Credit Corporation, a wholly owned Government corporation within the U.S. Department of Agriculture.

*County committee* means an FSA county or area committee established in accordance with section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

*FCIC* means the Federal Crop Insurance Corporation, a wholly owned Government corporation within the U.S. Department of Agriculture.

*Final decision* means the program decision rendered by the county or State committee upon written request of the participant. A decision that is otherwise final shall remain final unless the decision is timely appealed to the State committee or NAD. A decision of FSA or FCIC made by personnel subordinate to the county committee is considered “final” for the purpose of appeal to NAD only after that decision has been appealed to the county committee under the provisions of this part.

*FSA* means the Farm Service Agency.

*NAD* means the National Appeals Division, established pursuant to the 1994 Act.

*NAD regulations* means the National Appeals Division (NAD) rules of procedure published by the Secretary at 7 CFR part 11 implementing title II, subtitle H of the 1994 Act.

*NRCS* means the Natural Resource Conservation Service of the United States Department of Agriculture, formerly the Soil Conservation Service.

*Reconsideration* is a subsequent consideration of a prior decision by the same reviewing authority.

*Reviewing authority* means a person or committee assigned the responsibility of making a decision on the appeal filed by the participant in accordance with this part.

*State committee* means an FSA State committee established in accordance with section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) including, where appropriate, the Director of the Caribbean Area FSA office for Puerto Rico and the Virgin Islands.

*Technical determination of NRCS* means a decision by NRCS concerning the status and condition of the natural